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10/754,116	01/09/2004	Jeffrey Davis Hitzler		7902

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EXAMINER

GUIDOTTI, LAURA COLE

ART UNIT PAPER NUMBER

1744

DATE MAILED: 03/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/754,116

Applicant(s)

HITZLER, JEFFREY DAVIS

Examiner

Laura C. Guidotti

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– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 January 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "1" has been used to designate both U-shaped component (Page 3 Line 13) and an arc (Page 3 Line 18); reference character "4" has been used to designate both no hook (Page 3 Line 15) and an end (Page 3 Line 29, Page 4 Lines 8 and 10); reference character "5" has been used to designate both a hook (Page 3 Line 14) and an end (Page 3 Line 29, Page 4 Lines 8 and 10); reference character "8" has been used to designate both a semicircular section (Page 4 Line 2) and an inside diameter (Page 4 Lines 2 and 3). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 6 (Figure 7). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the

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description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The drawings are objected to because:

A. It is confusing as to what the "handle section 10" is structurally in the drawings. In Figure 1, "10" appears to include all of parts "1" and "2". If that is true, it is unclear as to how the "handle section 10 has (an) end 8" (Specification Page 3 Lines 13). It does not appear as if "8" is an end to "10".

B. The Examiner recommends that the Applicant look at other cited prior art references as to the correct format of including reference numbers in the detailed description. For Example, Page 3 Lines 15-16 read somewhat unclear: "Leg 12 has no hook 4..." Also, Page 4 Line 5: "...force upon 1..." Most of the usages of reference numbers within the specification are correct.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-4 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to present a complete operative device. The claim(s) must be in one sentence form only. Note the format of the claims in the patent(s) cited.

Claim 1 contains more than one sentence, the second sentence being incomplete. As mentioned above, the claims must be in one sentence form only and must have proper punctuation at the end of the sentence.

The preamble of Claim 1 requires the device to be "A paint brush" however, the claim does not positively recite any structure of a brush (i.e. bristles, brush section, etc.)

Claim 1 recites the limitation "the opposite leg" in Line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the encircling section" in Line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites the limitation "the handle component" in Line 8. There is insufficient antecedent basis for this limitation in the claim. Is "the handle component" the same as "the "U" shaped component"?

Claim 1 Lines 7-8 are unclear. What is meant by "...*means for to add* additional clamping force of the handle to the "U" shaped component, *by means* of protrusions..."

Claim 2 Line 2, is the "U" shaped body the same as the "U" shaped component of Claim 1? Terminology should be consistent when describing the same structure.

Claim 2 Line 3, it is unclear as to what has a cylindrical cross section?

Claim 2 Line 3, what is meant by "elastomeric properties"? Specifically, what properties does the handle have? Is it resilient, plastic, elastic, etc.?

Claim 4 Line 2, is the "U" shaped body the same as the "U" shaped component of Claim 1? Terminology should be consistent when describing the same structure.

Allowable Subject Matter

5. Claims 1-4 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

6. The following claim is drafted by the examiner and considered to distinguish patentably over the art of record in this application, is presented to applicant for consideration:

Claim 1. A paint brush with an angle adjustable handle for increased functionality and ease, comprising:

a paint brush section having bristles and a U-shaped component extending from the paint brush section;

a handle having first and second ends, said first end is an encircling end that clamps around the U-shaped component, said second end opposite the first encircling end having a hook and an end piece that lock together such that the handle is locked to the U-shaped component of the paint brush section,

said first encircling end including protrusions that add a clamping force to the handle.

7. The following is a statement of reasons for the indication of allowable subject matter:

None of the prior art made of record includes a paint brush having bristles and a U-shaped component, a handle having two ends, a first end being an encircling end that clamps around the U-shaped component, a second end opposite the first encircling end having a hook and an end piece that lock together such that the handle is locked to the

U-shaped component of the paint brush section, the first encircling end including protrusions that add a clamping force to the handle.

USPN 5,502,869 to Kim is a multi-directional brush, however does not include a handle having two ends, a first end being an encircling end that clamps around the U-shaped component, a second end opposite the first encircling end having a hook and an end piece and also does not include the first encircling end including protrusions that add a clamping force to the handle. USPN 2,792,581 to Woyton, USPN 1,787,970 to Bertola, USPN 2,032,664 to Raptis, and USPN 1,595,901 to Mahler each are adjustable paint brushes that also do not include the handle structure.

USPN 5,692,260 to Haiduk displays a toothbrush holder that has a handle with an encircling end and a second end opposite the encircling end having a hook and an end piece and protrusions on top of the encircling portion. The brush portion, however, does not include a U-shaped component and therefore, the encircling end does not clamp around a U-shaped component.

USPN 519,515 to Walsh displays an attachment for tools for holding them in different angles. The holding attachment has an encircling end that encircles a tool handle and it has a second end with a locking nut and bolt configuration.

Conclusion

8. An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or

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agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site <http://www.uspto.gov> in the Site Index under "Attorney and Agent Roster." Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U. S. Patent and Trademark Office, PO Box 1450, Alexandria, VA 22313-1450


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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